

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

J. H. L. FRENCH
and
KATHRYN W. FRENCH

Claim No. CU -0345

Decision No. CU -6024

**Under the International Claims Settlement
Act of 1949, as amended**

Counsel for claimants:

Rufus King, Esq.

AMENDED PROPOSED DECISION

Under date of January 12, 1971, the Commission issued its Proposed Decision on this claim certifying losses in favor of J. H. L. FRENCH and KATHRYN W. FRENCH each in the amount of \$154,674.45 plus interest.

A portion of the claim based upon certain personal property owned by KATHRYN W. FRENCH's late mother, Edna Best Wroe, was denied for failure to establish the decedent's nationality on the date of loss, and claimant's interest. Certain other portions of the claim were also denied for the same reason. Subsequently, new evidence was submitted with respect to the said personal property of the late Edna Best Wroe, and the Proposed Decision is hereby amended.

The Commission now finds that Edna Best Wroe, a national of the United States from birth until her death on February 19, 1968, owned certain items of personal property that were situated in claimant's house in Marianao, Cuba, and that said personal property was taken by Cuba on October 14, 1960. The record shows that KATHRYN W. FRENCH succeeded to her mother's claim for the loss of the personal property.

The evidence includes a detailed list of the properties prepared by the late Edna Best Wroe in 1943. It appears that the items of property, having an aggregate value of \$84,415.00, included paintings, antiques,

objects of art, and French Colonial and Louis XIV furniture. In addition, the list included springs, mattresses, pillows, blankets, clothing and furs, having an aggregate value of \$3,790.00, which the Commission finds had no value on October 14, 1960, the date of loss.

On the basis of the entire record, the Commission finds that the aggregate value of these items of personal property on October 14, 1960 was \$102,625.00. It is concluded that KATHRYN W. FRENCH succeeded to a claim in that amount.

KATHRYN W. FRENCH's losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
House and Lot	October 14, 1960	\$ 42,500.00
Furniture and Furnishings	October 14, 1960	110,125.00
Silver Objects	March 17, 1961	7,500.00
Automobile	October 14, 1960	1,400.00
Cashier's Checks	December 6, 1961	2,750.00
Pioneer	October 24, 1960	27,297.12
Drive-Inn	December 6, 1961	23,500.00
Helados	December 6, 1961	12,500.00
American Meat Market	February 15, 1961	10,048.84
Cuban American Metals Distributors, Inc.	August 16, 1960	14,780.36
Dividend Check	December 6, 1961	<u>4,898.13</u>
Total		<u>\$257,299.45</u>


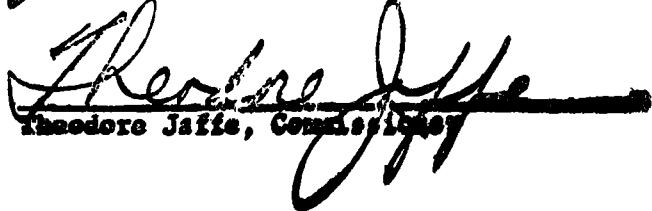
Accordingly, the Certification of Loss in the Proposed Decision in favor of KATHRYN W. FRENCH is set aside and the following Certification of Loss will be entered, and the Proposed Decision is affirmed in all other respects.

CERTIFICATION OF LOSS

The Commission certifies that KATHRYN W. FRENCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Hundred Fifty-Seven Thousand Two Hundred Ninety-Nine Dollars and Forty-Five Cents (\$257,299.45) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Amended Proposed Decision of the Commission

FEB 24 1971


Lytle S. Church, Chairman

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 31.5(e) and (g), as amended (1970).)

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

J. H. L. FRENCH
and
KATHRYN W. FRENCH

Claim No. **CU**-0345

Decision No. **CU** - 6024

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Rufus King, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$525,260.00, was presented by J. H. L. FRENCH. Inasmuch as it appears his spouse, KATHRYN W. FRENCH, had an interest in the subject matter of this claim, she has been joined as claimant herein. The claim is based upon the asserted loss of real and personal property in Cuba. Claimants have been nationals of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants assert the following losses:

House and lot at Country Club Park, Havana	\$ 85,000.00
Furniture and furnishings	100,000.00
Silver objects in custody deposit with a bank in Cuba	25,000.00
1958 Chevrolet sedan	4,000.00
Accounts receivable - Joaquin Rodriguez del Portillo	10,000.00
2 cashier's checks drawn on a bank in Cuba	5,500.00
50% stock interest in Servicio de Gomas Pioneer, S.A.	115,700.00
100% stock interest in Cia. de Tiendas The Drive-Inn, S.A.	58,000.00
100% stock interest in Helados Modernos, S.A.	25,000.00
100% stock interest in Mercados de Carnes Americanes, S.A.	20,260.00
245 shares of stock in Cuban American Metals Distributors, Inc.	67,000.00
Dividend check of Cuban American Metals Distributors, Inc.	<u>9,800.00</u>
Total	<u>\$525,260.00</u>

The evidence of record is discussed in detail below. On the basis thereof and taking into consideration the community property laws of Cuba, the Commission finds that claimants each owned a one-half interest in certain items of real and personal property in Cuba. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.)

House and Lot

Claimants assert the loss of a house and lot at 2108 Gran Boulevard, Country Club Park, Marianao, Havana, Cuba. A report from abroad indicates that the property was registered in the name of Dayton Hedges as of 1945. However, the record includes several affidavits from individuals having personal knowledge of the facts, including one from the heir of Dayton Hedges

who states that whereas he and his brother inherited the property from Dayton Hedges, it was sold to claimant herein.

Among the other affiants are claimant's accountant and former agent in Cuba, Joaquin Rodriguez del Portillo; a former Cuban attorney, Juan Silva, who participated as Notary Public in the transaction pursuant to which claimants purchased the improved real property in 1957; claimants' former Cuban attorney, Dr. Enrique Jova, who had retained in his office in Cuba the deed and a related "special warranty letter", both of which documents are now unavailable. This warranty letter, signed by the Hedges brothers, was for the protection of claimant against any damage that might result from delay in registering the title of the Hedges heirs, inasmuch as the claimant's deed could not be registered absent the prior registration. The Commission notes that as between the parties registration is not necessary (see Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

Additionally the record includes statements of the architect, Nicolas R. Arroyo, who was engaged by claimants to improve the house; John W. Wilson, Vice President of Aluminum Company of America, who had visited claimants at their home in Cuba; Lt. General Sumter L. Lowry, who was associated with claimants in financial matters and had visited claimants' home in Cuba; as well as W. Howard Frankland, past President of the First National Bank of Tampa, who was a former business associate of claimant J. H. L. FRENCH.

On the basis of the entire record, the Commission finds that claimants each owned a one-half interest in a house and lot at 2108 Gran Boulevard, Country Club Park, Marianao, Havana, Cuba.

The Commission finds that the property was within the purview of the Urban Reform Law of October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

Claimants state that the house and lot had a value of \$85,000.00, based upon their investment. The record shows that claimants paid \$70,000.00 for the improved real property, and that they expended the sum of \$15,000.00 in making further improvements to the premises.

The house is described as one-and-a-half stories, with large porches, three bedrooms, two baths, large hall, living rooms, reception room, library, dining rooms, kitchen and pantries, as well as servant's quarters, laundry, storage areas and a 2-car garage, on a lot of approximately 100 feet by 300 feet, fenced and walled, and bordered on two sides by American Embassy property.

Based upon the evidence of record, which includes a series of photographs of the interior and exterior of the house and grounds, the Commission finds that claimants' valuation is fair and reasonable, and that the value of the improved real property on October 14, 1960, the date of loss, was \$85,000.00; and concludes, therefore, that each claimant sustained a loss in the amount of \$42,500.00.

Furniture and Furnishings

On the basis of the evidence of record, the Commission finds that claimants each owned a one-half interest in items of personal property located in their house in Marianao, Cuba. The Commission further finds that the personal property was taken by the Government of Cuba on October 14, 1960, when the house was taken.

Claimants assert a loss of \$100,000.00 in this connection. In the opinions of most of the affiants the personal property had a value of \$100,000.00. It appears from the record, however, that claimants did not own all of the furniture and furnishings in their house in Cuba.

In his affidavit of April 29, 1965, Joaquin Rodriguez del Portillo, claimant's Cuban agent, states that the furniture belonged to Mr. French's mother-in-law; and was brought over from France and completely repaired and reupholstered in Havana by Mr. French at considerable expense to him.

Claimant has submitted a copy of Form TFR-500 "Census of Property in Foreign Countries", which was submitted to the United States Treasury Department in 1943 by individuals who owned property abroad. The report was executed by Mr. French's mother-in-law, Edna Best Wroe, and listed among other possessions in France, items of personal property, including furniture, a library, and other household furnishings, as well as paintings, antiques and objects of art. Mrs. Wroe had indicated that the aggregate value of these items of personal property was \$84,415.00.

The evidence also includes a report, dated October 6, 1960 from claimants' agent in Cuba submitted on instructions from claimant to the American Embassy at Havana, which recites that claimants' furniture, fixtures and equipment at their Havana house had a value of \$15,000.00.

The Commission then suggested claimants establish the extent of their ownership interest in the personal property claimed. Counsel submitted copy of a letter from Mr. French, dated January 19, 1968, and a copy of a detailed list of various items of personal property at claimants' home in Cuba, aggregating \$44,600.00.

Mr. French's letter refers to shipping costs from France to Cuba of more than \$10,000.00; and repair, refinishing and cabinet work amounting to more than \$12,000.00.

The Commission again suggested the submission of further evidence and invited Mr. French's mother-in-law to join in the claim if she was a United States national at all pertinent times. Mr. French's letter of January 5, 1970 states that his mother-in-law had died on February 19, 1968; that she had been a native-born American; and that Mrs. French was her sole heir.

Proof of Mrs. Wroe's nationality and evidence to establish that Mrs. French was her sole heir have not been submitted. The Commission repeated its suggestions under date of August 12, 1970. There has been no response either from claimants or counsel.

Upon consideration of the entire record and in the absence of evidence to the contrary, the Commission finds that the aggregate value of claimants'

personal property which was taken on October 14, 1960 was \$15,000.00 and concludes that each claimant sustained a loss in the amount of \$7,500.00.

Silver Objects

Claimants assert the loss of \$25,000.00 on account of certain silver objects in custody deposit with The First National Bank of Boston, Havana Branch. The record includes the custody receipt from said bank, dated April 22, 1960, acknowledging the deposit by Mr. French of two packages; and an affidavit of June 29, 1965 from John B. North, former Manager and General Accountant of the bank's Havana branch, who states that he recalls the deposit, and believes that the contents of the two packages consisted of silverware based on statements made at the time by Mr. French.

Based upon the entire record, the Commission finds that claimants each owned a one-half interest in certain silverware in custody deposit with The First National Bank of Boston, Havana Branch.

The Commission finds that the Bank held custody of these packages in the same manner and subject to the same laws as safe deposit boxes. By an Administrative Instruction of February 15, 1961 such contracts were declared null and void as of February 17, 1961. Lessees were given thirty days to remove such property. Thereafter authorities would take forceful possession thereof. (See Claim of Anna Littner, Claim No. CU-3655; and Claim of United Merchants and Manufacturers, Inc., Claim No. CU-0759.) Accordingly, the Commission finds that the property in custody, consisting of packages of silver, was taken by the Government of Cuba on March 17, 1961.

The record indicates that Mrs. French had sought the services of an appraiser with a view of insuring the silverware. The insurance was not taken as it could not be obtained in dollars. Mr. French states that the appraiser indicated a value in excess of \$15,000.00 by weight alone, without giving value to design, embellishment or antiquity, which were important, beautiful and great, respectively.

Upon consideration of the entire record and in the absence of more persuasive evidence, the Commission finds that the value of the silverware

on March 17, 1961, the date of loss, was \$15,000.00, and concludes that each claimant sustained a loss in the amount of \$7,500.00.

Automobile

The Commission finds on the basis of the evidence of record that claimants each owned a one-half interest in a 1958 Chevrolet automobile that was maintained at their house garage in Marianao, Cuba. The Commission further finds that the automobile was taken by the Government of Cuba on October 14, 1960, when the house was taken.

Claimants assert a loss of \$4,000.00, based upon the original cost of the automobile, as set forth in Mr. French's affidavit of June 28, 1965. It appears that the automobile's equipment included air conditioning.

The Commission finds that the automobile was two years old on October 14, 1960, the date of loss, and that it was subject to depreciation at the rate of 15% per year. The Commission therefore finds that the value of the automobile on the date of loss was \$2,800.00 and concludes, therefore, that each claimant sustained a loss in connection therewith in the amount of \$1,400.00.

Accounts Receivable

Claimants assert a loss of \$10,000.00, representing a debt due from their Cuban accountant and agent. The pertinent facts concerning this portion of the claim are set forth as follows in the affidavit of Joaquin Rodriguez del Portillo of April 29, 1965:

On his last visit to Havana in the summer of 1960 and at the Havana airport Mr. French entrusted to me for safekeeping the amount of \$10,000.00 in cash, which I kept for some time in a safe deposit box in the Royal Bank of Canada, Havana branch. I was advised by friends that the government intended to take over all the bank deposit boxes and withdrew the amount to my private residence. At the time of the Bay of Pigs incident, when house-to-house searches by the militia and arrests and even executions on the most trivial excuse were a constant fear, I apportioned the amount among friends and acquaintances for safekeeping or disposal in any way they saw fit. With the subsequent change in the Cuban peso certificate, I presume all of this money would now be worthless, if it had not been lost or spent before.

Upon consideration of this portion of the claim, the Commission finds no valid basis for concluding that any loss sustained by claimants with respect to the said \$10,000.00 was the result of the nationalization, expropriation, intervention or other taking of claimants' property by the Government of Cuba within the scope of Title V of the Act.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

The Commission finds that claimants have failed to sustain the burden of proof with respect to the portion of their claim based on a debt in the amount of \$10,000.00. Accordingly, this portion of the claim is denied.

Cashier's Checks

The evidence includes two original cashier's checks drawn by The First National Bank of Boston, Havana Branch in favor of Kathryn Wroe (claimant KATHRYN W. FRENCH). Each check is dated April 21, 1960, and is in the amount of \$2,750.00, the Cuban peso being on a par with the United States dollar. Claimants state that they were unable to cash the checks due to action of the Government of Cuba.

The Commission finds that claimants each owned a one-half interest in \$5,500.00 on deposit with The First National Bank of Boston, Havana Branch. (See Claim of Ana Maria Lopez Gutierrez, Claim No. CU-0197.)

On December 6, 1961, the Cuban Government published Law 989, which confiscated bank accounts and other property of persons who had left the country. The Commission finds that this law applied to claimants who had left Cuba prior to that date.

The Commission further finds that said deposit was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966]; and Gutierrez, supra.)

The Commission therefore concludes that each claimant sustained a loss in the amount of \$2,750.00, in this connection.

Servicio de Gomas Pioneer, S.A.

On the basis of the entire record, including affidavits from individuals having personal knowledge of the facts, the Commission finds that claimants jointly owned a 50% stock interest in Servicio de Gomas Pioneer, S.A. (Pioneer), a Cuban corporation engaged in manufacturing tires in Cuba.

Since Pioneer was organized under the laws of Cuba it does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of his ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

On October 24, 1960, the Government of Cuba published in its Official Gazette Resolution 3 pursuant to Law 851, which listed as nationalized Servicio de Gomas Pioneer, S.A. The Commission therefore finds that claimants' stock interest in Pioneer was taken by the Government of Cuba on October 24, 1960.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The record includes copies of balance sheets for Pioneer as of May 31, 1960 and June 30, 1960; profit and loss statements for the month ending May 31, 1960 and for the six-month period ending June 30, 1960, as well as supporting schedules. In an affidavit dated May 26, 1965, Pierre C. Lepoureau, Certified Public Accountant, affirmed that his firm prepared those financial statements.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimants is that shown by the balance sheet for Pioneer as of June 30, 1960, as adjusted herein. That balance sheet reflects assets aggregating \$280,208.70 and liabilities aggregating \$61,020.21, leaving an apparent net worth of \$219,188.49.

Among the assets is listed as an investment the item Caribbean Development Co., Inc. in the amount of \$110,000.00. Mr. French has stated that the Caribbean Development Co., Inc. was a wholly-owned subsidiary of Servicio de Gomas Pioneer, S.A.; was created to develop new manufacturing facilities through different sales outlets; and that it had not begun operations at the time of the Castro take-over. No evidence has been submitted to establish the basis for evaluating that asset at \$110,000.00.

On the basis of the evidence of record, the Commission finds no valid ground for concluding that the Caribbean Development Co., Inc. had any value on October 24, 1960, the date of loss. In the absence of evidence to the contrary, the Commission finds that this item did not constitute an asset of Pioneer on October 24, 1960, the date of loss.

The Commission therefore finds that the net worth of Pioneer on October 24, 1960 was \$109,188.49. Therefore, claimants' 50% stock interest had a value of \$54,594.24, and the Commission concludes that each claimant sustained a loss in the amount of \$27,297.12.

Cia. de Tiendas The Drive-Inn, S.A.

Based on evidence of record, the Commission finds that claimants each owned a 50% stock interest in Cia. de Tiendas The Drive-Inn, S.A. (Drive-Inn), a Cuban corporation that operated a restaurant in Cuba.

In his affidavit of April 29, 1965, claimants' agent, Joaquin Rodriguez del Portillo, states that he remained in Cuba until July 1961 and that he understands that Drive-Inn was taken over by an arm of the Cuban Government late in 1961.

On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that claimants' stock interest in Drive-Inn was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989 (supra). (See Claim No. CU-0109, Tabor, supra.)

No balance sheets or other financial statements concerning Drive-Inn have been submitted. However, the record includes statements made by claimants' agent, Joaquin Rodriguez del Portillo, who has personal knowledge of the facts. In his affidavits of April 29, 1965 and July 14, 1965, Mr. Portillo states that Drive-Inn owned land costing about \$43,000.00; that he estimates the value of other assets belonging to Drive-Inn at about \$20,000.00; that the total of \$63,000.00 represented capital and earned surplus; and that the only outstanding liability of Drive-Inn amounted to \$5,000.00, the balance due on a loan to the corporation.

The evidence also includes the report of October 6, 1960 to the American Embassy in Havana, reciting that Drive-Inn owned Lot No. 5, Block 11, Playa de Marianao, Havana, having an area of 1,182.89 square meters, located at 5th Avenue at 114 Street, Marianao, valued at \$42,000.00 and other assets consisting of equipment, betterments, installations, etc., valued at \$10,000.00, a total of \$52,000.00.

Upon consideration of the entire record, the Commission finds that Drive-Inn owned assets on December 6, 1961, the date of loss, aggregating \$52,000.00, and owed a debt in the amount of \$5,000.00.

Accordingly, the Commission finds that the net worth of Drive-Inn on December 6, 1961 was \$47,000.00, and concludes that each claimant sustained a loss in the amount of \$23,500.00.

Helados Modernos, S.A.

Claimants assert a loss of \$25,000.00 based upon a 100% stock interest in Helados Modernos, S.A. (Helados), a Cuban corporation that operated a chain of ice cream stands in Cuba. It appears from the evidence of record that in 1954 claimants sold their stock interest to unrelated companies for \$50,000.00, taking notes for debts due claimants from Helados. The record shows that a balance of \$25,000.00 was owed to claimants on the notes.

Claimants' agent, who set forth the foregoing account in his affidavits of April 29, 1965 and July 14, 1965 states that Cuba has taken all of the stores formerly belonging to Helados. The Commission finds that claimants jointly owned accounts receivable in the amount of \$25,000.00, due from the purchasers of Helados' assets. The Commission further finds in the absence of evidence to the contrary that claimants' rights with respect to said accounts receivable were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Tabor, supra.) The Commission concludes therefore that each claimant sustained a loss in the amount of \$12,500.00.

Mercados de Carnes Americanes, S.A.

Based on the evidence of record, the Commission finds that claimants each owned a 50% stock interest in Mercados de Carnes Americanes, S.A. (American Meat Market), a Cuban corporation operating a retail meat market in Cuba.

Claimants' agent states in his affidavit of April 29, 1965 that early in 1961 he was ordered by Cuban authorities to pay cash for beef purchases. Since business was poor, claimants' agent was unable to meet those terms. Consequently, the Cuban authorities took over the market. On the basis of the entire record and in the absence of evidence to the contrary, the Commission finds that the American Meat Market was taken by the Government of Cuba on February 15, 1961.

The record includes a balance sheet for the American Meat Market as of May 31, 1960. In his affidavit of June 26, 1965, Jose R. Hernandez, a Certified Public Accountant, affirms that he prepared the balance sheet, and

that it fairly represents the financial condition of the American Meat Market as of May 31, 1960 in conformity with generally accepted accounting principles.

That balance sheet shows that the assets of the American Meat Market had an aggregate value of \$39,218.37, and that its liabilities aggregated \$18,955.73.

Claimants assert a loss in the amount of \$20,260.00, approximating the apparent net worth of \$20,262.64 as shown in that balance sheet. One of the listed assets of the American Meat Market is an account receivable due from Mr. French in the amount of \$164.95.

The Commission finds that this account receivable could not have been taken by the Government of Cuba. Accordingly, the Commission finds that the net worth of the American Meat Market on February 15, 1961 was \$20,097.69. The Commission therefore concludes that J. H. L. FRENCH and KATHRYN W. FRENCH sustained losses in the amounts of \$10,048.85 and \$10,048.84, respectively.

Cuban American Metal Distributors, Inc.

Based upon the evidence of record, the Commission finds that claimants jointly owned 245 shares of stock in Cuban American Metal Distributors, Inc., a Cuban corporation engaged in selling in Cuba products of the Aluminum Company of America.

The Commission has held that this Cuban corporation was intervened by the Government of Cuba on August 16, 1960, and that one share of stock in the corporation had a value of \$120.656 on the day of loss. (See Claim of William A. Powe, Claim No. CU-0502.)

Accordingly, the Commission finds that the value of claimants' stock interest was \$29,560.72 on August 16, 1960. Therefore, each claimant sustained a loss in the amount of \$14,780.36.

Dividend Check

The record shows that the Cuban American Metal Distributors, Inc. declared a dividend in August 1960, shortly before it was intervened by Cuba. Mr. French returned to Cuba in August 1960 to attend the stockholders'

meeting at which time the dividend was declared. The Commission finds that the dividend due claimants amounted to \$9,796.25.

It further appears from the evidence of record that the Cuban corporation issued checks to its stockholders for the dividends due them. The checks were in the nature of cashier's checks issued by the Royal Bank of Canada, Havana Branch. Mr. French collected his check, but left it at that bank as a deposit because he was unable to transfer the funds out of Cuba.

The Commission finds that claimants each owned a one-half interest in \$9,796.25 on deposit with the Royal Bank of Canada, Havana Branch. The Commission further finds that said deposit was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Auld and Gutierrez, supra.)

Accordingly, the Commission finds that J. H. L. FRENCH and KATHRYN W. FRENCH sustained losses in the amounts of \$4,898.12 and \$4,898.13, respectively.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>J. H. L. FRENCH</u>		
House and Lot	October 14, 1960	\$ 42,500.00
Furniture and Furnishings	October 14, 1960	7,500.00
Silver Objects	March 17, 1961	7,500.00
Automobile	October 14, 1960	1,400.00
Cashier's Checks	December 6, 1961	2,750.00
Pioneer	October 24, 1960	27,297.12
Drive-Inn	December 6, 1961	23,500.00
Helados	December 6, 1961	12,500.00
American Meat Market	February 15, 1961	10,048.85
Cuban American Metals Distributors, Inc.	August 16, 1960	14,780.36
Dividend Check	December 6, 1961	<u>4,898.12</u>
		\$154,674.45

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>KATHRYN W. FRENCH</u>		
House and Lot	October 14, 1960	\$ 42,500.00
Furniture and Furnishings	October 14, 1960	7,500.00
Silver Objects	March 17, 1961	7,500.00
Automobile	October 14, 1960	1,400.00
Cashier's Checks	December 6, 1961	2,750.00
Pioneer	October 24, 1960	27,297.12
Drive-Inn	December 6, 1961	23,500.00
Helados	December 6, 1961	12,500.00
American Meat Market	February 15, 1961	10,048.84
Cuban American Metals		
Distributors, Inc.	August 16, 1960	14,780.36
Dividend Check	December 6, 1961	<u>4,898.13</u>
		\$154,674.45

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in this case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
<u>J. H. L. FRENCH</u>	
August 16, 1960	\$ 14,780.36
October 14, 1960	51,400.00
October 24, 1960	27,297.12
February 15, 1961	10,048.85
March 17, 1961	7,500.00
December 6, 1961	<u>43,648.12</u>
	\$154,674.45

<u>KATHRYN W. FRENCH</u>	
August 16, 1960	\$ 14,780.36
October 14, 1960	51,400.00
October 24, 1960	27,297.12
February 15, 1961	10,048.84
March 17, 1961	7,500.00
December 6, 1961	<u>43,648.13</u>
	\$154,674.45

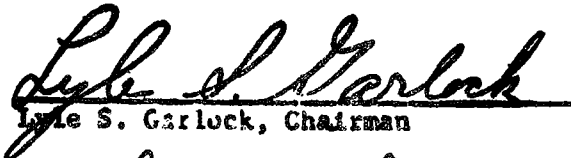
CERTIFICATIONS OF LOSS

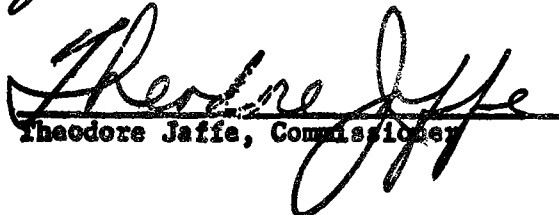
The Commission certifies that J. H. L. FRENCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Fifty-four Thousand Six Hundred Seventy-four Dollars and Forty-five Cents (\$154,674.45) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that KATHRYN W. FRENCH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Fifty-four Thousand Six Hundred Seventy-four Dollars and Forty-five Cents (\$154,674.45) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JAN 12 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 11.5(e) and (g), as amended (1970).)